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JUL 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,639,839 : DECISION ON REQUEST
Chiu et al. : FOR
Issue Date: 12/29/2009 : RECONSIDERATION OF
Application No. 10/815389 : PATENT TERM ADJUSTMENT
Filed: 03/31/2004 : and
Atty Docket No. : NOTICE OF INTENT TO ISSUE
FXPL-01093US0 : CERTIFICATE OF CORRECTION

This is a decision on the petition filed under 37 CFR 1.705(d) on January 28, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred fifty-one (1151) days. For the reasons stated below, the petition is treated as requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred forty-nine (1149) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred forty-nine (1149) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 1, 2007, and ends on June 23, 2008, the day before the RCE was filed, and is 480 (not 481) days. See 35 U.S.C. 154(b)(1)(B)(i). Furthermore, the overlapping period from April 1, 2007, to November 13, 2007, the date the first Office action was mailed, is 227 days, not 226 days as asserted by patentees. Accordingly, the patent term adjustment is 1149

days (896 days of Office delay + 480 years of over three years delay - 227 days overlap - 0 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred forty-nine (1149) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,639,839 B2

DATED : Dec. 29, 2009

DRAFT

INVENTOR(S) : Chiu et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 896 days.

Delete the phrase "by 896 days" and insert - by 1149 days--